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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,467	02/12/2004	Jochen Hofmann	51900/DBP/M521	5554

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 03/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/779,467

Applicant(s)

HOFMANN ET AL.

Examiner

Joseph F. Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 4, 6, 8, 9, 13 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 7, 10-12, 14-27, 29 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the foreign application for patent or inventor's certificate on which priority is claimed pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month and year of its filing.

Drawings

2. The drawings were received on 12 December 2005. These drawings are acceptable.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 5, 10-12, 14, 16-18, 20, 21-24, 26, 27, and 30 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,903,280 B2 to Selig et al.

Selig et al. disclose a seat that includes all the limitations recited in claims 1-3, 5, 10-12, 14, 16-18, 20, 21-26, 27, and 30. Selig et al. shows a seat having a seat element (Fig. 2B) constituting a component of a seat structure and made up of a mounting angle attached to a part of the seat structure, a tubular drive element 114 (see Fig. 8) pivotably connected to the seat element constituting a component of a displacement arrangement, a weight sensor 104 designed as an electrically operated sensor in two parts 110, 112 nonpivotably connected and for mounting the tubular drive element on the seat element, a mounting section of the weight sensor that extends axially inside an element 118 nonpivotably connected thereto, a mounting element arranged on the tubular drive element, and a locking element wherein the tubular drive element is mounted on the seat element via the mounting section of the weight sensor, the mounting section serves for radial, pivotable mounting of the tubular drive element, the tubular drive element is pivotably mounted on the weight sensor through the mounting element, the mounting element is capable of being preassembled on the weight sensor using an axial locking element before connecting to the tubular drive element, a sensor part nonpivotably fixed to the seat element, the tubular drive element and the weight sensor constitute a preassembled assembly that is capable of attaching to the seat element, and a longitudinal axis of the weight sensor extends along the tubular drive element.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Selig et al.

Although the material connection of the tubular drive element and the mounting element is not specifically recited, modifying the material connection would have been obvious at the time of Applicant's invention because the use of preferred materials discovered by routine experimentation is ordinarily within the skill of the art. Further, it would have been an obvious matter of design choice to modify the material connection of the tubular drive element and the mounting element since the Applicant has not disclosed that having the specific material connection solves any stated problem or is for any particular purpose and it appears that the connection of the tubular drive and the mounting element would perform equally well with any known material used in the art.

7. Claims 15, 19, 25, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Selig et al. in view of U.S. Publication No. 2003/0067196 A1 to Sakamoto et al.

Selig et al. disclose a seat that is basically that same as that recited in claims 15, 19, 25, and 29 except that the seat lack a lock nut and the tubular drive element lacks a transverse tube, as recited in the claims. Sakamoto et al. show a seat similar to that of Selig et al. wherein the tubular drive element 20b (Fig. 1) has a transverse tube 28 (Fig.

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4) running from one longitudinal side of the seat to the other, and a locking nut 27a (Fig. 4). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat of Selig et al. such that the tubular drive element 20b has a transverse tube 28 running from one longitudinal side of the seat to the other, a lock nut for nonpivotable arrangement of the weight sensor on the seat element with toothed zones, i.e. threads, meshing with each other for mounting the tubular drive element on the mounting section, such as the seat disclosed in Sakamoto et al. One would have been motivated to make such a modification in view of the suggestion in Sakamoto et al. that the transverse tube connects seat element spaced under the seat to maintain a predetermined width, and the lock nut and thread are used for securing connection of disparate pieces.

Response to Arguments

8. Applicant's arguments filed 12 December 2005 have been fully considered but they are not persuasive. Applicant argues that Selig et al. fail to disclose a tubular drive element pivotably connected to the seat element constituting a component of a displacement arrangement. Specifically, Applicant argues that the carrying bolt 116 is not tubular. Examiner reasonably interprets the pivot point 114 having a carrying bolt 116 and a deformable part 112 as being a drive element. *Merriam-Webster's Collegiate Dictionary, Tenth Edition* defines "tubular" as having the form of or consisting of a tube, and defines a tube as any of various usually cylindrical structures or devices. Examiner reasonably interprets a tubular drive element as a drive element having the form of a

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cylindrical structure wherein the carrying bolt of Selig et al. is in the form of a cylindrical structure. Therefore, the carrying bolt and deformable part meet the limitation of a tubular drive element.

In response to applicant's arguments against Selig et al. and Sakamoto et al. individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). See the above rejection for motivation to combine the teachings of Selig et al. in view of Sakamoto et al.

With respect to new claim 30, the load cell 104 of Selig et al. is a weight sensor formed from force transducer 105 including the non-deforming part 110 and elastically deformable part 112 wherein the deformable part has a longitudinal axis that extends along an axis of the tubular drive element. The tubular drive element is mounted to the seat element by being supported on the deformable part 112 of the weight sensor. Therefore, Selig et al. teach all the limitations of claim 30.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JE

February 19, 2006



Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600